

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL E. JACQUES,
Plaintiff,

v.

R. QUICK, et al.,
Defendants.

No. 2:22-cv-0811 CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and plaintiff has consented to have all matters in this action before a United States Magistrate Judge. See 28 U.S.C. § 636(c).

Plaintiff requests leave to proceed in forma pauperis. As plaintiff has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a), his request will be granted. Plaintiff is required to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. §§ 1914(a), 1915(b)(1). By separate order, the court will direct the appropriate agency to collect the initial partial filing fee from plaintiff's trust account and forward it to the Clerk of the Court. Thereafter, plaintiff will be obligated for monthly payments of twenty percent of the preceding month's income credited to plaintiff's prison trust account. These payments will be forwarded by the appropriate agency to the Clerk of the Court each time the amount in plaintiff's account exceeds \$10.00, until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

1 The court is required to screen complaints brought by prisoners seeking relief against a
2 governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The
3 court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally
4 “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek
5 monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

6 Having conducted the required screening, the court finds that plaintiff may proceed on the
7 following claims:

8 1. Claims against defendant Quick for excessive use of force in violation of the Eighth
9 Amendment, denial of medical care in violation of the Eighth Amendment and denial of equal
10 protection of the laws in violation of the Fourteenth Amendment

11 2. Claims against defendant Bordewick for failing to intervene as to defendant Quick’s
12 excessive use of force in violation of the Eighth Amendment and denial of medical care in
13 violation or the Eighth Amendment.

14 To the extent plaintiff attempts to assert other actionable claims in his complaint, he has
15 not done so. At this point, plaintiff has two options: proceed on the claims identified above, or
16 request leave to amend so that he might attempt to assert other actionable claims.

17 If plaintiff chooses to amend the complaint, plaintiff is informed that there can be no
18 liability under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a
19 defendant’s actions and the claimed deprivation. Rizzo v. Goode, 423 U.S. 362 (1976).
20 Furthermore, vague and conclusory allegations of official participation in civil rights violations
21 are not sufficient. Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982).

22 In accordance with the above, IT IS HEREBY ORDERED that:

23 1. Plaintiff’s request for leave to proceed in forma pauperis (ECF No. 2) is granted.

24 2. Plaintiff is obligated to pay the statutory filing fee of \$350.00 for this action. All fees
25 shall be collected and paid in accordance with this court’s order to the Director of the California
26 Department of Corrections and Rehabilitation filed concurrently herewith.

27 3. Plaintiff is granted 21 days within which to complete and return the attached form
28 notifying the court whether he wants to proceed on the claims described in this order or whether

he wishes to file an amended complaint. If plaintiff does not return the form, this action will proceed on the claims described above.

Dated: November 2, 2022



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

1
jacq0811op

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL E. JACQUES,
Plaintiff,

v.

R. QUICK, et al.,
Defendants.

No. 2:22-cv-0811 CKD P

PLAINTIFF'S NOTICE OF
HOW TO PROCEED

Check one:

_____ Plaintiff wants to proceed immediately on the following claims:

1. Claims against defendant Quick for excessive use of force in violation of the Eighth Amendment, denial of medical care in violation of the Eighth Amendment and denial of equal protection of the laws in violation of the Fourteenth Amendment.

2. Claims against defendant Bordewick for failing to intervene as to defendant Quick's excessive use of force in violation of the Eighth Amendment and denial of medical care in violation or the Eighth Amendment.

_____ Plaintiff wants time to file an amended complaint.

DATED:

Plaintiff's Signature